IN THE

SUPREME COURT OF THE UNITED STATES

Office Supreme Court, U.S.
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OCTOBER TERM, 1964

Nos. 83 and 140

NORTHERN NATURAL GAS COMPANY, a Corporation, and CITIES SERVICE GAS COMPANY, a Corporation,
Appellants,

vs.

STATE CORPORATION COMMISSION OF THE STATE OF KANSAS et al.,
Appellees.

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC., a Corporation,
Appellant,

vs.

STATE CORPORATION COMMISSION OF THE STATE OF KANSAS et al.,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF KANSAS

APPELLANTS' JOINT APPLICATION TO EXTEND TIME WITHIN WHICH TO FILE PETITIONS FOR REHEARING IN THESE APPEALS

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December 7, 1964

IN THE

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To: THE UNITED STATES SUPREME COURT AND THE JUSTICES THEREOF:

Appellants above named do hereby jointly apply and respectfully request that the time within which each of the

named appellants may file and serve a petition for rehearing herein in accordance with Rule 58 of this Court, be extended from December 18, 1964, to and including January 18, 1961, premised on the following considerations:

(a) Appellants construe the Court's per curiam decisional judgment of dismissal entered November 23, 1964 (granting appellees' motions to dismiss "for want of jurisdiction" without specifying any of the reasons set forth in such motions) or in the alternative denying certiorari to mean that such appeals are premature in that no actual and immediate conflict between Federal and State regulatory authority has yet developed, because at this time the Kansas Commission has restored certain of the underages of appellants theretofore lost by cancellation and extended the time to run such underages until December 31, 1964, thereby showing these appellants have presently suffered no actual and immediate detriment from said Commission's orders.

(b) On Page 6 of the Federal Power Commission's Memorandum it is stated:

> "* * * the change in determining allowables has resulted in a large accumulation of underages, many of which have been cancelled. In December 1963, however, the Kansas Commission entered an order providing that no underages would be cancelled in 1964 and that underages previously cancelled would be reinstated upon application showing that the wells are capable of producing the amounts in question and that the purchaser will take such amounts, provided that the amounts so restored are run within the twelve-month period following reinstatement."

(c) Such order and moratorium will expire December 31, 1964. Since the issuance of said order and during the month of November, 1964, another hearing was held

by said Kansas Commission whereat it was shown that due to the enormity of such underages the same could not be run within said twelve-month period following the reinstatement thereof. At least half of such reinstated underages have not yet been run. Said Commission, after hearing evidence adduced at said hearing, and being fully advised in the premises, took the disposition of the matter under advisement—whether to further extend the allowed time for the running of such reinstated underages and extend the moratorium, or simply to cancel them wholesale on January 1, 1965. No ruling to this date has been made by the Kansas Commission in such docket. By reason of the provisions of said order as heretofore entered by said Kansas Commission the remaining unrun reinstated underages will be automatically cancelled and lost to the wells connected to the pipe line systems of these appellants unless action is taken by the Kansas Commission before December 31, 1964, extending the period for running the same.

(d) The Federal Power Commission, on Page 11 of its Memorandum herein, states:

> "In any event, even if the 'cancellation' issue were otherwise substantial, there would be no occasion for the Court to entertain it at this time. As noted, the Kansas Commission has declared a moratorium upon the further cancellation of underages and has announced that any underages previously cancelled will be reinstated under said conditions. As yet, therefore, none of the appellants *has irrevocably lost any of its underages.*"

(e) Appellants' time for filing petitions for rehearing herein will expire December 18, 1964, unless extended as applied for here. If this application for extension be not granted it is possible that the Kansas Commission

may refuse to allow further and sufficient extension of said moratorium and time to run such reinstated underages and thereby cause actual and immediate substantial detriment to these appellants from the loss of such cancelled underages, thereby impairing the reserves dedicated to appellants by their respective producers, which would result in an actual conflict with the regulatory jurisdiction of the Federal Power Commission. *Harper Oil Company* v. *Federal Power Commission*, (C.A. 10, 1960) 284 F.2d 137, 139. Cf. *Sunray Mid-Continent Oil Co.* v. *F.P.C.*, 364 U.S. 137, 156, 4 L. Ed. 2d 1623, 80 S. Ct. 1392, 1403.

Respectfully submitted,

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